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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

APR 29 2008

MIKE GLEASON, Chairman
 WILLIAM A. MUNDELL
 JEFF HATCH-MILLER
 KRISTIN K. MAYES
 GARY PIERCE

DOCKETED BY

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In the matter of)

G'IEBER FINANCIAL, LLC, a Delaware)
 limited liability company, CRD#128954)
 2500 South Power Road, Ste 222-Rm 213)
 Mesa, AZ 85208)

DAVID A. GOTLIEB, CRD#2089760 and)
 STACEY SCIBELLI-GOTLIEB, husband)
 and wife)

Respondents.)

DOCKET NO. S-20554A-07-0552

DECISION NO. 70319

**ORDER TO CEASE AND DESIST, ORDER
 OF RESTITUTION, ORDER OF DENIAL,
 ORDER FOR ADMINISTRATIVE
 PENALTIES AND CONSENT TO SAME
 BY: G'IEBER FINANCIAL, LLC, DAVID A.
 GOTLIEB AND STACEY SCIBELLI-
 GOTLIEB**

G'IEBER FINANCIAL, LLC ("G'IEBER"), DAVID A. GOTLIEB and STACEY
 SCIBELLI-GOTLIEB ("Respondents") elect to permanently waive any right to a hearing and
 appeal under Articles 7 and 8 of the Arizona Investment Management Act, A.R.S. § 44-3101 *et*
seq. ("Investment Management Act") with respect to this Order to Cease and Desist, Order of
 Restitution, Order of Denial, Order for Administrative Penalties and Consent to Same ("Order").
 Respondents admit the jurisdiction of the Arizona Corporation Commission ("Commission");
 admit the Findings of Fact and Conclusions of Law contained in this Order; and consent to the
 entry of this Order by the Commission.

I.

FINDINGS OF FACT

1. G'IEBER, CRD#128954, is a limited liability company organized on or about
 December 3, 2001 under the laws of the state of Delaware. G'IEBER's application for
 registration as a foreign limited liability company in Arizona was approved on June 30, 2003.

1 G'IEBER relocated from Massachusetts to Arizona in November of 2001 and is currently located
2 at 2500 S. Power Road, Mesa, Arizona. Since December 6, 2000, G'IEBER has been licensed as
3 an investment adviser in Massachusetts.

4 2. In or around April of 2004, G'IEBER filed an application with the Arizona
5 Corporation Commission for licensure as an investment adviser. That application was deemed
6 abandoned on or about January 20, 2005, due to G'IEBER's failure to respond to the Division's
7 request for information. On May 18, 2006, G'IEBER filed another application for licensure as an
8 Arizona investment adviser.

9 3. GOTLIEB, CRD#2089760, is and was at all pertinent times managing and sole
10 member of G'IEBER. GOTLIEB was a securities salesman, registered in Arizona in affiliation with
11 Hibbard Brown & Co., Inc. from October 23, 1991 to April 25, 1992; and with Securities America,
12 Inc. from April 3, 1996 to December 1, 2000. GOTLIEB's registration as a securities salesman in
13 Arizona was automatically suspended, pursuant to A.R.S. § 44-1949, on December 1, 2000, when he
14 ceased to be associated with a registered dealer, and expired on December 31, 2000. GOTLIEB is
15 and was at all pertinent times licensed as an investment adviser representative in Massachusetts
16 from December 6, 2000 to the present.

17 4. GOTLIEB has been a resident of Arizona since November of 2001. GOTLIEB is
18 not and has never been licensed as an investment adviser representative in Arizona. On or about
19 August 16, 2006, GOTLIEB filed an application for licensure as an Arizona investment adviser
20 representative.

21 5. STACEY SCIBELLI-GOTLIEB was at all relevant times the spouse of GOTLIEB
22 and is joined in this action under A.R.S. § 44-3291(C) solely for purposes of determining the liability
23 of the marital community. At all relevant times, GOTLIEB and STACEY SCIBELLI-GOTLIEB
24 were acting for their own benefit and for the benefit or in furtherance of the marital community.

25 6. G'IEBER AND GOTLIEB may be collectively referred to as "RESPONDENTS."
26 STACEY SCIBELLI-GOTLIEB may be referred to as "RESPONDENT SPOUSE."

1 7. GOTLIEB was a registered securities salesman, in Arizona, from approximately
2 1991. According to GOTLIEB, in approximately 2000, he decided to leave the brokerage firm
3 where he was employed and offer his clients an opportunity to "move forward" with him through
4 G'ieber Value Fund L.P. ("G'ieber Fund").

5 8. G'ieber Fund is a limited partnership organized under the laws of Delaware in or
6 around April of 2000. G'ieber Fund was registered with the Arizona Secretary of State's Office as a
7 foreign limited partnership on or about December 12, 2002 and is currently located at 2500 S.
8 Power Road, Mesa, Arizona. G'ieber Fund is a pooled investment partnership. G'ieber Fund has
9 approximately 40 limited partners who invested approximately \$3,570,000.00. G'ieber Fund is the
10 sole client of G'IEBER.

11 9. GOTLIEB is the managing and sole member of G'IEBER. G'IEBER is the general
12 partner of G'ieber Fund. GOTLIEB has custody of the client's, G'ieber Fund, assets.

13 10. RESPONDENTS operated, in Arizona, as an unlicensed investment adviser and
14 investment adviser representative in Arizona since 2001.

15 **OFFERING MEMORANDUM AND ADVISORY AGREEMENT**

16 11. When GOTLIEB left the brokerage firm where he was working, GOTLIEB solicited
17 a number of clients to become limited partners in a new fund he was starting, G'ieber Fund.
18 GOTLIEB provided an offering memorandum dated October 19, 2000 to those former clients. The
19 offering memorandum not only explained the sale of the limited partnership interests, it also
20 explained, in detail, the terms of the investment advisory services that would be provided by
21 G'IEBER.

22 12. RESPONDENTS made all investment decisions and had full custody and discretion
23 over the funds in G'ieber Fund.

24 13. G'ieber Fund's objective was to generate substantial capital appreciation during
25 periods of market strength, while preserving capital and profiting selectively during periods of stock
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1 market weakness. G'ieber Fund sought substantial capital appreciation by investing in, and trading
2 equities, options and other investments.

3 14. G'IEBER was to receive compensation for providing investment advice and
4 managing the investments of G'ieber Fund in the form of management fees, as well as receiving a
5 share of the profits of the G'ieber Fund. G'IEBER would be paid by G'ieber Fund a monthly
6 management fee equal to $1/12^{\text{th}}$ of 1% (approximately 1.0% annually) of the net asset value of each
7 limited partner's book capital account. G'IEBER was allotted an incentive equal to 20% of the new
8 appreciation of G'ieber Fund during each calendar quarter. The incentive allocations accrued
9 monthly.

10 15. From about 2001 to about May of 2006, G'IEBER collected fees from G'ieber Fund
11 for providing investment advisory services. Beginning in about May of 2006, after being notified by
12 the Securities Division of the Arizona Corporation Commission that G'IEBER could not receive
13 compensation for investment advisory services provided to G'ieber Fund unless licensed or exempt
14 from licensure, G'IEBER continued to accrue fees from G'ieber Fund by deducting the fees from
15 the limited partners' capital accounts through an accounting entry.

16 16. All investment decisions were made exclusively by GOTLIEB through G'IEBER.
17 G'IEBER had "unlimited authority" to administer the financial activities of G'ieber Fund. Further,
18 the offering memorandum states that GOTLIEB will supervise all of G'ieber Fund's investment and
19 administrative functions.

20 17. The offering memorandum states that the success of G'ieber Fund will depend on the
21 ability of GOTLIEB to develop and implement investment strategies to achieve G'ieber Fund's
22 investment objectives.

23 18. G'IEBER was to provide office space and certain support services at no cost to
24 G'ieber Fund. GOTLIEB through G'IEBER, however, invested G'ieber Fund money in an office
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1 building in Mesa, Arizona, which housed not only G'ieber Fund but also G'IEBER and GOTLIEB's
2 mortgage broker¹ businesses.

3 19. G'ieber Fund was to provide GOTLIEB a 20 year life insurance policy with death
4 benefits of one million dollars. The beneficiary was to be G'ieber Fund. According to GOTLIEB,
5 G'ieber Fund is paying for an insurance policy on GOTLIEB in the amount of two million dollars.
6 G'ieber Fund is the beneficiary for one million dollars; GOTLIEB's family is the beneficiary of the
7 remaining one million dollars. G'ieber Fund was not reimbursed for the expense of the extra
8 coverage.

9 20. Although the offering memorandum generally discloses conflicts of interest it does
10 not disclose specific conflicts that may be present involving G'IEBER and its affiliates. The
11 offering memorandum is silent regarding material conflicts of interest.

12 21. In addition to the offering memorandum, RESPONDENTS gave the limited partners
13 in G'ieber Fund a limited partnership agreement. The limited partnership agreement states that
14 G'IEBER may withdraw or receive a distribution of any portion of its own interests upon notice to
15 the limited partners. G'IEBER has been liquidating its shares without the required notice to the
16 investors.

17 22. The offering memorandum identifies G'ieber Fund's investment objective as
18 substantial capital appreciation by investing in and trading equities, options and other tangible
19 investments. Since the beginning of G'ieber Fund, the main investments made by G'ieber Fund
20 were in stocks. In about 2004, G'ieber Fund began funding loans to individuals. The loans were
21 notes secured by deeds of trust. On a number of occasions, the notes and deeds of trust were
22 between GOTLIEB and his spouse, STACEY SCIBELLI-GOTLIEB and the borrower. On at least
23 one occasion, the note was between STACEY SCIBELLI-GOTLIEB and the borrower only.

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26 ¹ Great Southwest Mortgage and Western Horizon Mortgage

G'IEBER FINANCIAL WEBSITE

23. RESPONDENTS maintained a website that provides information about G'IEBER, GOTLIEB and G'ieber Fund. The website included performance history and investment strategies of the RESPONDENTS and G'ieber Fund. The general public was able to access almost all information on the website. The website restricts access to individual account statements to the individual limited partners. Potential investors are able to request information through the website.

COMMUNITY CAPITAL CORPORATION

24. On or about October of 2000, GOTLIEB became a director and recording secretary of COMMUNITY CAPITAL CORPORATION ("CCC"). Upon information and belief, CCC was a mortgage lender and broker conducting business in California, Arizona and other states. CCC was a corporation organized under the laws of California on February 4, 1999. CCC filed in Arizona as a foreign corporation in November of 2000. CCC's application for registration as a foreign corporation was approved by the Arizona Corporation Commission on November 2, 2000.

25. As of February 5, 2001, GOTLIEB became Chief Financial Officer ("CFO") and continues to be a director and the recording secretary of CCC. GOTLIEB is currently the sole officer and director of CCC.

26. Between February 1, 2001 and August 31, 2001, G'ieber Fund purchased 100,000 shares of stock in CCC for approximately \$200,000. CCC used the money from the sale of stock for the operations of CCC.

27. G'ieber Fund made a series of investments in CCC. The decision to have G'ieber Fund invest in CCC was made by GOTLIEB as managing member of G'IEBER.

28. As CFO of CCC and a member of the board of directors, GOTLIEB had knowledge of CCC's financial condition. G'ieber Fund, through G'IEBER, under the control of GOTLIEB, invested in CCC through a series of notes. The promissory notes between G'ieber Fund and CCC

1 were signed by GOTLIEB as principal of the general partner and Daniel Gottlieb², Chief Operating
2 Officer of CCC. According to GOTLIEB, CCC required an investment of funds to cover operational
3 expenses, including salary expenses.

4 29. On or about September 27, 2001, G'ieber Fund lent CCC \$50,000 evidenced by a
5 promissory note. The note was for a term of 30 days at 12% annualized rate. CCC was to pay the
6 principal and the interest back to G'ieber Fund on or before October 29, 2001.

7 30. CCC did not pay the note due on October 29, 2001.

8 31. Even though the first note was in default, on November 28, 2001, G'ieber Fund lent
9 an additional \$90,000 to CCC. A promissory note was executed between G'ieber Fund and CCC.
10 The principal was due on December 31, 2001. According to GOTLIEB, CCC was in significant
11 financial trouble at this point.

12 32. On or about December 1, 2001, CCC held a Board of Directors meeting at which
13 GOTLIEB was present. At the meeting, all board members agreed that CCC was in financial crisis.

14 33. At this time, GOTLIEB proposed converting the G'ieber Fund notes totaling
15 \$140,000 to CCC stock or alternatively, to close down CCC and pay G'ieber Fund the funds owed.

16 34. With the prior two notes in default, on December 14, 2001, G'ieber Fund lent an
17 additional \$13,000 to CCC through another promissory note. According to GOTLIEB, CCC needed
18 to pay rent. The note was due on December 31, 2001. As of December 14, 2001, the September 27,
19 2001 note had not been paid.

20 35. At the time of a December 29, 2001 CCC special shareholders meeting, G'ieber
21 Fund held \$153,000 in due or delinquent notes from CCC. GOTLIEB's company American
22 Impound Tax Services ("AITS") held an outstanding note from CCC in the amount of \$7,000.

23 36. On January 2, 2002, G'ieber Fund sent a notice of delinquency to CCC.
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26 ² David Gottlieb's brother.

1 37. With the prior notes in default, on January 14, 2002, G'ieber Fund lent an additional
2 \$50,000 to CCC evidenced by a promissory note. The term of the note was fifteen days. CCC was
3 to fund operations with the \$50,000.

4 38. Even though the prior notes were in default, on January 14, 2002, G'ieber Fund
5 issued a line of credit to CCC in the amount of \$1,000,000. At the time the line of credit was
6 opened, CCC was delinquent on the previous promissory notes issued by G'ieber Fund.

7 39. On or about January 17, 2002, CCC held a special shareholder's meeting. At this
8 meeting, GOTLIEB disclosed to the board that CCC would have a negative net worth as of
9 December 31, 2001 if the current notes payable were not converted to stock or paid off. The current
10 notes payable amounted to \$153,000 to G'ieber Fund and \$7,000 to AITS.

11 40. On or about January 11, 2002 G'ieber Fund obtained a loan from Wells Fargo in the
12 amount of \$42,000. The loan was guaranteed by G'IEBER. On or about December 21, 2001,
13 G'ieber Fund had placed \$42,000 into a certificate of deposit with restricted access to secure the
14 loan subsequently obtained by G'ieber Fund.

15 41. At the January 17, 2002 special shareholder's meeting, a proposal by G'IEBER
16 through GOTLIEB was made to the CCC board. The proposal included that G'IEBER would
17 purchase and lease to CCC an information system including WAN and email. The lease was for 36
18 months at 18% interest with a \$1.00 buy out option at the end of the lease. A leasing contract was to
19 be signed by CCC and G'IEBER.

20 42. On or about January 22, 2002, Wells Fargo transferred \$42,000 into G'ieber Fund's
21 account. Upon information and belief, on or about January 31, 2002, G'ieber Fund transferred
22 \$41,303.58 to a JP Morgan Chase account for the purchase of an information system for CCC. CCC
23 then made only two online transfers to G'ieber Fund bank accounts in the amount of \$1,493.22 with
24 references to "lease for Dell". G'ieber Fund paid the monthly payments to Wells Fargo on the loan.

25 43. GOTLIEB closed down CCC in early 2003. GOTLIEB turned in the mortgage
26 broker license held by CCC to the Department of Financial Institutions in January of 2003.

1 44. The limited partners of G'ieber Fund were not told of the material conflicts of
2 interest involving G'IEBER and GOTLIEB, including, but not limited to the fact that GOTLIEB
3 was the CFO, board member and recording secretary of CCC and knew of the serious financial
4 problems that existed at CCC. According to GOTLIEB, he received salary payments from CCC
5 that were funded by the loans from G'ieber Fund.

6 **GREAT SOUTHWEST MORTGAGE**

7 45. In January of 2003, GOTLIEB became a branch manager for Great Southwest
8 Mortgage. GOTLIEB made representations to the Securities Division that a merger took place
9 between CCC and Great Southwest Mortgage. In some instances, GOTLIEB represented that CCC
10 just became Great Southwest Mortgage. At other times, GOTLIEB represented that G'ieber Fund
11 was a ten percent owner of the branch of Great Southwest Mortgage. The Branch Agreement signed
12 by GOTLIEB does not mention the ten percent ownership by G'ieber Fund. In fact, the Branch
13 Agreement requires GOTLIEB to devote his full and complete time and effort to Great Southwest
14 Mortgage. The G'ieber Fund offering memorandum states that GOTLIEB will spend the majority
15 of his professional time on G'ieber Fund affairs.

16 46. Although there is no direct connection between G'ieber Fund and Great Southwest
17 Mortgage, G'ieber Fund paid for telephone systems, advertising and other expenses for Great
18 Southwest Mortgage. According to GOTLIEB, the reason G'ieber Fund paid for the expenses of
19 Great Southwest Mortgage was to recoup some of the money lost in the CCC investment. However,
20 there is no documentation to support GOTLIEB's representations.

21 47. GOTLIEB left Great Southwest Mortgage to become branch manager of Western
22 Horizon Mortgage. Western Horizon Mortgage took over the offices of Great Southwest Mortgage.
23 Western Horizon Mortgage went out of business in about April of 2007.

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LICENSING STATUS

48. G'IEBER's application for licensure as an investment adviser in Arizona remains incomplete. G'IEBER failed to provide the Division with information required to complete the application.

49. GOTLIEB's application for licensure as an investment adviser representative in Arizona is incomplete. GOTLIEB failed to provide the Division with information required to complete the application.

50. The Securities Division requested additional information be provided to address certain issues that arose in the RESPONDENTS' applications. RESPONDENTS failed to provide responses to the Securities Division's request.

51. RESPONDENTS G'IEBER and GOTLIEB failed to disclose to the limited partners of G'ieber Fund that GOTLIEB was a director, recording secretary and CFO of CCC and as director, recording secretary and CFO had knowledge of the financial condition of CCC.

52. RESPONDENTS G'IEBER and GOTLIEB failed to disclose to investors that GOTLIEB benefited from the investments G'ieber Fund made in CCC by receiving a salary that was paid with the investments made by G'ieber Fund.

53. RESPONDENTS G'IEBER and GOTLIEB failed to disclose to investors that GOTLIEB used G'ieber Fund monies to fund investments in the name of GOTLIEB and his spouse, STACEY SCIBELLI-GOTLIEB.

54. RESPONDENT G'IEBER failed to have an independent certified public accountant verify all client funds and securities by actual examination at least once during each calendar year without notice.

55. RESPONDENT G'IEBER failed to have an independent certified public accountant file a copy of the auditor's report and financial statements with the Commission within 30 days after the completion of the examination along with a letter stating that they examined the funds and securities and describing the nature and extend of the examination.

II.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Investment Management Act.

2. Respondents violated A.R.S. § 44-3151 by transacting business in this state as investment advisers or investment adviser representatives while neither licensed nor exempt.

3. RESPONDENTS G'IEBER's and GOTLIEB's conduct is grounds to deny their applications as an investment adviser and investment adviser representative with the Commission pursuant to A.R.S. § 44-3201. Specifically, denial of RESPONDENTS G'IEBER's and GOTLIEB's applications would be in the public interest.

a. RESPONDENTS G'IEBER's and GOTLIEB's applications for licensure are incomplete, inaccurate or misleading within the meaning of A.R.S. §44-3201(A)(1). RESPONDENTS have failed to provide documents that were requested.

b. RESPONDENT G'IEBER is insolvent or is in an unsound financial condition within the meaning of A.R.S. §44-3201(A)(2).

c. RESPONDENTS G'IEBER and GOTLIEB have violated the Investment Management Act and Rules by continuing to provide financial advice for compensation without being licensed within the meaning of A.R.S. §44-3201(A)(3).

d. RESPONDENTS G'IEBER and GOTLIEB failed to file with the Commission all information required under the IM Act and Rules and refused to permit an examination within the meaning of A.R.S. §44-3201(A)(4) by failing to provide requested documentation or provide responses to subpoenas specifically related to the use of limited partners' funds pursuant to A.R.S. §44-3132(2).

- 1 e. RESPONDENT G'IEBER knowingly retained an unlicensed investment
2 adviser representative within the meaning of A.R.S. §44-3201(A)(5).
3 GOTLIEB is not a licensed investment adviser representative in the state of
4 Arizona.
- 5 f. RESPONDENT G'IEBER permitted RESPONDENT GOTLIEB to render
6 investment advice in violation of the Investment Management Act and Rules
7 within the meaning of A.R.S. §44-3201(A)(6).
- 8 g. RESPONDENTS G'IEBER and GOTLIEB engaged in dishonest or unethical
9 practices in the securities industry within the meaning of A.R.S. §44-
10 3201(A)(13) including but not limited to:
- 11 i. Refusing to allow or otherwise impeding the Commission from
12 conducting an investigation or examination under the IM Act or any
13 rule adopted thereunder within the meaning of R14-6-203(1) by failing
14 to provide, as requested and subpoenaed, detailed financial information
15 related to use of limited partners' funds including but not limited to cash
16 receipts journals, cash disbursement journals, general ledgers, bank
17 statements; and documents showing the calculations for management
18 and incentive fees.
- 19 ii. Failing to disclose conflicts of interest that impaired the rendering of
20 unbiased and objective advice to the detriment of the partners within the
21 meaning of R14-6-203(11).
- 22 1. RESPONDENTS violated their fiduciary duty as adviser to
23 G'ieber Fund by failing to make full and fair disclosure of all
24 material facts including but not limited to GOTLIEB's
25 relationship with CCC.
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1 2. RESPONDENTS further violated their fiduciary duty to the
2 G'ieber Fund by using the assets of G'ieber Fund to further
3 benefit their own interests including but not limited to using
4 G'ieber Fund assets to purchase equipment for CCC and having
5 assets of G'ieber Fund placed in GOTLIEB's name.

6 4. RESPONDENTS G'IEBER's and GOTLIEB's conduct is grounds for an order of
7 restitution and to assess administrative penalties pursuant to A.R.S. § 44-3201(B). Specifically:

8 a. RESPONDENT G'IEBER rendered investment advice in Arizona without
9 being licensed within the meaning of under A.R.S. §44-3201(A)(6).

10 b. RESPONDENTS G'IEBER and GOTLIEB Engaged in dishonest or unethical
11 practices in the securities industry within the meaning of A.R.S. §44-
12 3201(A)(13), specifically,

13 i. Refusing to allow or otherwise impeding the Commission from
14 conducting an investigation or examination under the IM Act or any
15 rule adopted thereunder pursuant to A.R.S. §44-3132(2) by failing to
16 provide, as requested, detailed financial information related to use of
17 limited partners' funds including but not limited to cash receipts
18 journals, cash disbursements journals, general ledgers, bank statements,
19 and documents showing the calculations for management and incentive
20 fees.

21 ii. Failing to disclose a conflict of interest that impaired the rendering of
22 unbiased and objective advice to the detriment of the partners within the
23 meaning of R14-6-203(11).

24 5. Respondents violated A.R.S. § 44-3241 by (a) employing a device, scheme, or
25 artifice to defraud, (b) making untrue statements or misleading omissions of material facts, (c)
26 misrepresenting professional qualifications with the intent that the misrepresentation be relied on,

1 and/or (d) engaging in transactions, practices, or courses of business that operate or would operate
2 as a fraud or deceit.

3 a. RESPONDENT G'IEBER failed to have an independent certified public
4 accountant verify all client funds and securities by actual examination at least
5 once during each calendar year without notice as defined by A.A.C. R14-6-
6 206(A)(4)(b)(i).

7 b. RESPONDENT G'IEBER failed to have an independent certified public
8 accountant file a copy of the auditor's report and financial statements with the
9 Commission within 30 days after the completion of the examination along with
10 a letter stating that they examined the funds and securities and describing the
11 nature and extent of the examination as defined by A.A.C. R14-6-
12 206(A)(4)(b)(ii).

13 c. RESPONDENTS G'IEBER and GOTLIEB failed to disclose all material
14 conflicts of interest of GOTLIEB including but not limited to:

15 i) Failing to disclose that GOTLIEB was a director, recording secretary
16 and CFO of CCC and as director, recording secretary and CFO had
17 knowledge of the financial condition of CCC.

18 ii) Failing to disclose to investors that GOTLIEB benefited from the
19 investments G'ieber Fund made in CCC by receiving a salary that was
20 paid with the investments funds raised by G'ieber Fund.

21 d. RESPONDENTS G'IEBER and GOTLIEB failed to disclose to investors that
22 GOTLIEB used G'ieber Fund monies to fund investments in the name of
23 GOTLIEB and his spouse, STACEY SCIBELLI-GOTLIEB.

24 6. Respondents' conduct is grounds for a cease and desist order pursuant to A.R.S.
25 A.R.S. § 44-3292 and A.R.S. § 44-3201.

III.

ORDER

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3 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Respondents'
4 consent to the entry of this Order, attached and incorporated by reference, the Commission finds
5 that the following relief is appropriate, in the public interest, and necessary for the protection of
6 investors:

7 IT IS ORDERED, pursuant to A.R.S. § 44-3292 and A.R.S. § 44-3201, that Respondents,
8 and any of Respondents' agents, employees, successors and assigns, permanently cease and desist
9 from violating the Investment Management Act.

10 IT IS FURTHER ORDERED that Respondents comply with the attached Consent to Entry
11 of Order.

12 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-3292 and A.R.S. § 44-3201, that
13 Respondents and community of the Respondent Spouse shall, jointly and severally, pay restitution
14 to the Commission in the amount of \$1,559,650. Payment shall be made in full on the date of this
15 Order. Payment shall be made to the "State of Arizona" to be placed in an interest-bearing account
16 controlled by the Commission. The Commission shall disburse the funds to G'ieber Value Fund.
17 Any funds that the Commission determines it is unable to or cannot feasibly disburse shall be
18 transferred to the general fund of the state of Arizona.

19 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-3296 and A.R.S. § 44-3201, that
20 Respondents and community of the Respondent Spouse shall, jointly and severally, pay an
21 administrative penalty in the amount of \$50,000. Payment shall be made to the "State of Arizona."
22 Any amount outstanding shall accrue interest at the rate of 10% per annum from the date of this
23 Order until paid in full. The payment obligations for these administrative penalties shall be
24 subordinate to any restitution obligations ordered herein and shall become immediately due and
25 payable only after restitution payments have been paid in full or upon Respondents' default with
26 respect to Respondents' restitution obligations.

1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-3201, that RESPONDENT
2 G'IEBER's application for licensure as an investment adviser is denied.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-3201, that RESPONDENT
4 GOTLIEB's application for licensure as an investment adviser representative is denied.

5 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-3201, that RESPONDENTS notify
6 all limited partners of G'ieber Value Fund of the existence of this Order within ten days from the
7 date of this Order. RESPONDENTS shall provide a copy of this Order to all limited partners of
8 G'ieber Value Fund.

9 For purposes of this Order, a bankruptcy filing by any of the Respondents shall be an act of
10 default. If any Respondent does not comply with this Order, any outstanding balance may be
11 deemed in default and shall be immediately due and payable.

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IT IS FURTHER ORDERED, that if any Respondent fails to comply with this Order, the Commission may bring further legal proceedings against that Respondent, including application to the superior court for an order of contempt.

IT IS FURTHER ORDERED that this Order shall become effective immediately.


BY ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
Executive Director of the Arizona Corporation
Commission, have hereunto set my hand and caused the
official seal of the Commission to be affixed at the
Capitol, in the City of Phoenix, this 29th day of
April, 2008.


BRIAN C. McNEIL
Executive Director

DISSENT

DISSENT

This document is available in alternative formats by contacting Linda Hogan, ADA Coordinator,
voice phone number 602-542-3931, e-mail lhogan@azcc.gov.

(wlc)

CONSENT TO ENTRY OF ORDER

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2 1. Respondent G'IEBER FINANCIAL, LLC admits the jurisdiction of the
3 Commission over the subject matter of this proceeding. Respondent G'IEBER FINANCIAL, LLC
4 acknowledges that it has been fully advised of its right to a hearing to present evidence and call
5 witnesses and it knowingly and voluntarily waives any and all rights to a hearing before the
6 Commission and all other rights otherwise available under Article 7 of the Investment
7 Management Act and Title 14 of the Arizona Administrative Code. Respondent G'IEBER
8 FINANCIAL, LLC acknowledges that the Order to Cease and Desist, Order of Restitution, Order
9 of Denial, Order for Administrative Penalties and Consent to Same ("Order") constitutes a valid
10 final order of the Commission.

11 2. Respondent G'IEBER FINANCIAL, LLC knowingly and voluntarily waives any
12 right under Article 8 of the Investment Management Act to judicial review by any court by way of
13 suit, appeal, or extraordinary relief resulting from the entry of this Order.

14 3. Respondent G'IEBER FINANCIAL, LLC acknowledges and agrees that this Order
15 is entered into freely and voluntarily and that no promise was made or coercion used to induce
16 such entry.

17 4. Respondent G'IEBER FINANCIAL, LLC understands and acknowledges that it has
18 a right to seek counsel regarding this Order, and that it has had the opportunity to seek counsel
19 prior to signing this Order. Respondent G'IEBER FINANCIAL, LLC acknowledges and agrees
20 that, despite the foregoing, it freely and voluntarily waives any and all right to consult or obtain
21 counsel prior to signing this Order.

22 5. Respondent G'IEBER FINANCIAL, LLC admits the Findings of Fact and
23 Conclusions of Law contained in this Order. Respondent G'IEBER FINANCIAL, LLC agrees that
24 it shall not contest the validity of the Findings of Fact and Conclusions of Law contained in this
25 Order in any present or future administrative proceeding before the Commission or any other state
26

1 agency concerning the denial or issuance of any license or registration required by the state to
2 engage in the practice of any business or profession.

3 6. By consenting to the entry of this Order, Respondent G'IEBER FINANCIAL, LLC
4 agrees not to take any action or to make, or permit to be made, any public statement denying,
5 directly or indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the
6 impression that this Order is without factual basis. Respondent G'IEBER FINANCIAL, LLC will
7 undertake steps necessary to assure that all of its agents and employees understand and comply
8 with this agreement.

9 7. While this Order settles this administrative matter between Respondent G'IEBER
10 FINANCIAL, LLC and the Commission, Respondent G'IEBER FINANCIAL, LLC understands
11 that this Order does not preclude the Commission from instituting other administrative or civil
12 proceedings based on violations that are not addressed by this Order.

13 8. Respondent G'IEBER FINANCIAL, LLC understands that this Order does not
14 preclude the Commission from referring this matter to any governmental agency for
15 administrative, civil, or criminal proceedings that may be related to the matters addressed by this
16 Order.

17 9. Respondent G'IEBER FINANCIAL, LLC understands that this Order does not
18 preclude any other agency or officer of the state of Arizona or its subdivisions from instituting
19 administrative, civil, or criminal proceedings that may be related to matters addressed by this
20 Order.

21 10. Respondent G'IEBER FINANCIAL, LLC agrees that it will not apply to the state
22 of Arizona for registration as a securities dealer or for licensure as an investment adviser at any
23 time in the future.

24 11. Respondent G'IEBER FINANCIAL, LLC agrees that it will not exercise any
25 control over any entity that offers or sells securities or provides investment advisory services
26 within or from Arizona at any time in the future.

1 12. Respondent G'IEBER FINANCIAL, LLC agrees that it will not sell any securities
2 in or from Arizona without being properly registered in Arizona as a dealer, or exempt from such
3 registration; it will not sell any securities in or from Arizona unless the securities are registered in
4 Arizona or exempt from registration; and it will not transact business in Arizona as an investment
5 adviser unless properly licensed in Arizona or exempt from licensure.

6 13. Respondent G'IEBER FINANCIAL, LLC consents to the entry of this Order and
7 agrees to be fully bound by its terms and conditions.

8 14. Respondent G'IEBER FINANCIAL, LLC acknowledges and understands that if it
9 fails to comply with the provisions of the order and this consent, the Commission may bring
10 further legal proceedings against it, including application to the superior court for an order of
11 contempt.

12 15. Respondent G'IEBER FINANCIAL, LLC understands that default shall render it
13 liable to the Commission for its costs of collection and interest at the maximum legal rate.

14 16. Respondent G'IEBER FINANCIAL, LLC agrees and understands that if it fails to
15 make any payment as required in the Order, any outstanding balance shall be in default and shall
16 be immediately due and payable without notice or demand. Respondent G'IEBER FINANCIAL,
17 LLC agrees and understands that acceptance of any partial or late payment by the Commission is
18 not a waiver of default by Commission.

19 ...

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26 ...

17. G'IEBER FINANCIAL, LLC represents that DAVID A. GOTLIEB is managing member of G'IEBER FINANCIAL, LLC and has been authorized by name G'IEBER FINANCIAL, LLC to enter into this Order for and on behalf of it.

G'IEBER FINANCIAL, LLC

By DAVID A. GOTLIEB,
Its Managing Member

STATE OF ARIZONA)
) ss
County of Maricopa)

SUBSCRIBED AND SWORN TO BEFORE me this 17th day of March, 2008.

Veronica Sandoval
NOTARY PUBLIC

My commission expires:

9/21/2010



CONSENT TO ENTRY OF ORDER

1
2 1. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB, husband
3 and wife, admit the jurisdiction of the Commission over the subject matter of this proceeding.
4 Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB acknowledge that they
5 have been fully advised of their right to a hearing to present evidence and call witnesses and
6 Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB knowingly and
7 voluntarily waive any and all rights to a hearing before the Commission and all other rights
8 otherwise available under Article 7 of the Investment Management Act and Title 14 of the Arizona
9 Administrative Code. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB
10 acknowledge that this Order to Cease and Desist, Order of Restitution, Order of Denial, Order for
11 Administrative Penalties and Consent to Same ("Order") constitutes a valid final order of the
12 Commission.

13 2. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB
14 knowingly and voluntarily waive any right under Article 8 of the Investment Management Act to
15 judicial review by any court by way of suit, appeal, or extraordinary relief resulting from the entry
16 of this Order.

17 3. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB
18 acknowledge and agree that this Order is entered into freely and voluntarily and that no promise
19 was made or coercion used to induce such entry.

20 4. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB
21 understand and acknowledge that they have a right to seek counsel regarding this Order, and that
22 they have had the opportunity to seek counsel prior to signing this Order. Respondents DAVID A.
23 GOTLIEB and STACEY SCIBELLI-GOTLIEB acknowledge and agree that, despite the
24 foregoing, they freely and voluntarily waive any and all right to consult or obtain counsel prior to
25 signing this Order.
26

1 5. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB admit the
2 Findings of Fact and Conclusions of Law contained in this Order. Respondents DAVID A.
3 GOTLIEB and STACEY SCIBELLI-GOTLIEB agree that they shall not contest the validity of the
4 Findings of Fact and Conclusions of Law contained in this Order in any present or future
5 administrative proceeding before the Commission or any other state agency concerning the denial
6 or issuance of any license or registration required by the state to engage in the practice of any
7 business or profession.

8 6. By consenting to the entry of this Order, Respondents DAVID A. GOTLIEB and
9 STACEY SCIBELLI-GOTLIEB agree not to take any action or to make, or permit to be made, any
10 public statement denying, directly or indirectly, any Finding of Fact or Conclusion of Law in this
11 Order or creating the impression that this Order is without factual basis. Respondents DAVID A.
12 GOTLIEB and STACEY SCIBELLI-GOTLIEB will undertake steps necessary to assure that all of
13 their agents and employees understand and comply with this agreement.

14 7. While this Order settles this administrative matter between Respondents DAVID A.
15 GOTLIEB, STACEY SCIBELLI-GOTLIEB and the Commission, Respondents DAVID A.
16 GOTLIEB and STACEY SCIBELLI-GOTLIEB understand that this Order does not preclude the
17 Commission from instituting other administrative or civil proceedings based on violations that are
18 not addressed by this Order.

19 8. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB
20 understand that this Order does not preclude the Commission from referring this matter to any
21 governmental agency for administrative, civil, or criminal proceedings that may be related to the
22 matters addressed by this Order.

23 9. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB
24 understand that this Order does not preclude any other agency or officer of the state of Arizona or
25 its subdivisions from instituting administrative, civil, or criminal proceedings that may be related
26 to matters addressed by this Order.

1 10. Respondent DAVID A. GOTLIEB agrees that he will not apply to the state of
2 Arizona for registration as a securities dealer or salesman or for licensure as an investment adviser
3 or investment adviser representative at any time in the future.

4 11. Respondent DAVID A. GOTLIEB agrees that he will not exercise any control over
5 any entity that offers or sells securities or provides investment advisory services within or from
6 Arizona at any time in the future.

7 12. Respondent DAVID A. GOTLIEB agrees that he will not sell any securities in or
8 from Arizona without being properly registered in Arizona as a dealer or salesman, or exempt from
9 such registration; he will not sell any securities in or from Arizona unless the securities are
10 registered in Arizona or exempt from registration; and he will not transact business in Arizona as
11 an investment adviser or an investment adviser representative unless properly licensed in Arizona
12 or exempt from licensure.

13 13. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB
14 acknowledge that any restitution or penalties imposed by this Order are obligations of the marital
15 community.

16 14. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB consent
17 to the entry of this Order and agree to be fully bound by its terms and conditions.

18 15. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB
19 acknowledge and understand that if they fail to comply with the provisions of the order and this
20 consent, the Commission may bring further legal proceedings against them, including application
21 to the superior court for an order of contempt.

22 16. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB
23 understand that default shall render them liable to the Commission for its costs of collection and
24 interest at the maximum legal rate.

25 17. Respondents DAVID A. GOTLIEB and STACEY SCIBELLI-GOTLIEB agree and
26 understand that if they fail to make any payment as required in the Order, any outstanding balance

STACEY SCIBELLI-GOTLIEB

STATE OF ARIZONA)
) ss
County of *Maricopa*)

SUBSCRIBED AND SWORN TO BEFORE me this 17th day of March, 2008.

Vernice Sandord
NOTARY PUBLIC

My commission expires:

9/21/2010

